

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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**In The Matter of**

**Application by Verizon New Jersey Inc., Bell  
Atlantic Communications, Inc., (d/b/a Verizon  
Long Distance), NYNEX Long Distance Company  
(d/b/a Verizon Enterprise Solutions), Verizon)  
Global Networks Inc., and Verizon Select  
Services Inc., for Authorization to Provide  
In-Region, InterLATA Services in New Jersey**

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**CC Docket No. 02-67**

**OPPOSITION OF THE  
ASSOCIATION OF COMMUNICATIONS ENTERPRISES**

The Association of Communications Enterprises (ASCENT”),<sup>1</sup> through undersigned counsel and pursuant to Public Notice, DA 02-718 (released March 26, 2002), hereby opposes the refiled application ("Refiled Application") of Verizon New Jersey Inc., Bell Atlantic Communications, Inc., (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc. (collectively "Verizon") for authority to provide in-region, interLATA service in the State of New Jersey,<sup>2</sup> pursuant to Section 271 of the Communications Act of 1934 (the “Act”), as amended by the

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<sup>1</sup> ASCENT is a national trade association representing smaller providers of competitive telecommunications and information services. The largest association of competitive carriers in the United States, ASCENT was created, and carries a continuing mandate, to foster and promote the competitive provision of telecommunications and information services, to support the competitive communications industry, and to protect and further the interests of entities engaged in the competitive provision of telecommunications and information services.

<sup>2</sup> On March 19, 2002, Verizon withdrew its initial application, filed December 20, 2002, to originate interLATA traffic in New Jersey (“Original Application”).

Telecommunications Act of 1996.<sup>3</sup> As ASCENT will demonstrate herein, certain recurring and nonrecurring charges assessed by Verizon in conjunction with the use by competitor local exchange carriers (“LECs”) of the unbundled network element (“UNE”) platform (“UNE-Platform”) continue to stand as substantial barriers to UNE-based competition in New Jersey.

Use by competitive LECs of the UNE-Platform in New Jersey lags far behind, on both an absolute and percentage basis, use of the UNE-Platform by competitive providers in the neighboring State of New York, where the UNE-Platform is now the predominant service wholesale service vehicle utilized by competitive providers. Indeed, Verizon acknowledges that of the nearly seven million switched access lines in New Jersey, “competing carriers in New Jersey served approximately 22,000 lines using unbundled network element platforms,” of which only 800 were residential lines.<sup>4</sup> Access lines provided over the UNE-Platform thus constitute less than five percent of competitive LEC-provided access lines in New Jersey and well under one percent of total switched access lines in the State, while residential lines served by competitors using the UNE-Platform represent an infinitesimally small percentage of total New Jersey residential lines. The reason for the extremely limited use of the UNE-Platform in New Jersey is manifest. Until weeks before the filing of its Original Application, Verizon maintained UNE rates and charges which effectively precluded use of the UNE-Platform by competitors.

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<sup>3</sup> 47 U.S.C. § 271.

<sup>4</sup> Original Application at pp. 6 - 8.

This unfortunate situation was corrected in part by a recent order of the New Jersey Board of Public Utilities (“NJBPU”) which mandated substantial reductions in many of Verizon’s UNE rates and charges.<sup>5</sup> Unfortunately, the *NJBPU Final UNE Rate Order* did not fully remedy the problem. Verizon, for example, was authorized by the NJBPU to assess highly inflated charges for performing hot cuts, a circumstance which the carrier has corrected in part in its Refiled Application. Per minute charges established for local switching, however, were not only set at excessive levels by the NJBPU, but remain at these inflated values. Accordingly, the UNE-based competition which has not heretofore developed in New Jersey is unlikely to do so unless UNE rates and charges in the State are further adjusted downward.

Per minute switching charges in New Jersey are currently set at \$0.002773 (originating) and at \$0.002506 (terminating). Comparable rates in New York are currently set at \$0.001147 (originating) and at \$0.001111 (terminating), having been reduced by the New York Public Service Commission (“NYPSC”) from what it affirmatively determined to be the non-TELRIC-compliant amount of \$0.002986.<sup>6</sup> And the wide variances between the New Jersey and New York switching charges are certainly not justified by cost differences between the two States. Verizon acknowledges that switching costs are comparable between New York and New Jersey.<sup>7</sup>

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<sup>5</sup> In the Matter of the Board’s Review of Unbundled Network Elements Rates, Terms and Conditions of Bell Atlantic New Jersey, Inc. (Decision and Order), Docket No. TO00060356 (NJBPU March 6, 2002) (“NJBPU Final UNE Rate Order”).

<sup>6</sup> Proceeding on Motion of the Commission to Examine New York Telephone Company’s Rates for Unbundled Network Elements (Order on Unbundled Network Element Rates), Case 98-C-1357 (January 28, 2002) (“NYPSC UNE Rate Order”).

<sup>7</sup> Refiled Application at Appx. A, Tab B (Declaration of Patrick A. Garzillo and Marsha S. Prosini, pg. 17).

Nor is New York the only State as to which Verizon's per minute switching charges are exceeded by a wide margin by the switching charges assessed by the carrier in New Jersey. Verizon's New Jersey per minute switching charges, for example, exceed those charged by the incumbent in Rhode Island and Texas by more than 100 percent, and those charged by the incumbent in Pennsylvania, Kansas, Oklahoma, Missouri and Arkansas by amounts ranging from more than 30 percent to more than 70 percent.<sup>8</sup>

The cause of Verizon's inflated per-minute switching charges in New Jersey are well documented in the record of CC Docket No. 01-347. As demonstrated by AT&T Corp. ("AT&T") and WorldCom, Inc. ("WorldCom"), the manner in which these rates were computed was flawed in multiple respects. Among other things, these two commenters have shown that Verizon (i) improperly ignored weekend and holiday usage in determining switch usage rates, wrongfully relying exclusively on peak usage days, (ii) erred in including the cost of vertical features in per-minute switching charges, and (iii) wrongfully relied on erroneous switch acquisition prices.<sup>9</sup>

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<sup>8</sup> Supplemental Comments of WorldCom, Inc., filed in CC Docket No. 01-347 on March 13, 2002.

<sup>9</sup> Comments of AT&T (at pp. 15 - 16) and WorldCom (at pp. 9 - 12), filed January 14, 2002, Reply Comments of AT&T (at pp. 9 - 13) and WorldCom (at pp. 3 - 4), filed February 1, 2002, and Supplemental Comments of AT&T (at p. 15) and WorldCom (at pp. 3 - 8), filed March 13, 2002, in CC Docket No. 01-347.

Until these problems are remedied and Verizon's New Jersey per-minute switching charges are brought within "the range that the reasonable application of TELRIC principles would produce,"<sup>10</sup> use of the UNE-Platform by competitors and hence UNE-based competition in the State of New Jersey will continue to falter. As both World Com and Z-Tel Communications, Inc. ("Z-Tel") have shown, it will remain virtually impossible for competitors to serve the mass residential market in New Jersey.<sup>11</sup> As described by Z-Tel, Verizon "has foreclosed completely facilities-based residential telephone entry" in the State of New Jersey, because "CLECs cannot reasonably provide residential service in New Jersey without losing substantial sums of money on every sale."<sup>12</sup> WorldCom echoes this sentiment, declaring that it "would like to serve . . . the mass residential market" in the State of New Jersey, but is unable to do so because of "Verizon's high prices for UNEs."<sup>13</sup>

Also hindering facilities-based competition in the State of New Jersey are Verizon's reduced, but still excessive, hot cut charges. In its Refiled Application, Verizon has "voluntarily" reduced by more than 75 percent to \$35 the hot cut charges the NJBPU had authorized it to levy.<sup>14</sup> While a substantial improvement, the reduced New Jersey hot cut charges are still more than eight times comparable charges in Pennsylvania, and between more than 50 percent to nearly 200 percent

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<sup>10</sup> Id.

<sup>11</sup> Comments of Z-Tel (at pp. 3 - 7) and WorldCom (at pp. 5 - 8), filed January 14, 2002, Supplemental Comments of WorldCom, filed March 13, 2002, in CC Docket No. 01-347.

<sup>12</sup> Comments of Z-Tel (at pp. 2, 5), filed January 14, 2002, in CC Docket No. 01-347.

<sup>13</sup> Comments of WorldCom (at p. 5), filed January 14, 2002, in CC Docket No. 01-347.

<sup>14</sup> Refiled Application at pp. 13 - 18.

higher than like charges in the States of Delaware, Maryland and Virginia.<sup>15</sup> And the record further reflects that cost-based hot cut charges should not exceed \$5.00.<sup>16</sup> If, as Verizon so vigorously argues to the contrary, its original hot-cut charges reflect the costs associated with Verizon's performance of a hot cut,<sup>17</sup> any argument that competitors are not impaired by a lack of unbundled access to its circuit switching facilities must necessarily fall by the wayside. And with this thought

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<sup>15</sup> Comments of AT&T (at p. 2) , filed January 14, 2002, in CC Docket No. 01-347.

<sup>16</sup> Supplemental Comments of AT&T (at pp. 7 - 15) , filed March 13, 2002, in CC Docket No. 01-347.

<sup>17</sup> Refiled Application at pp. 13 - 18.

in mind, it bears emphasis that Verizon's reduction of its New Jersey hot-cut charges may be short-lived.<sup>18</sup>

By reason of the foregoing, the Association of Communications Enterprises urges the Commission to deny as premature the Application filed by Verizon New Jersey Inc., Bell Atlantic Communications, Inc., (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc. for authority to provide in-region, interLATA service in the State of New Jersey, unless and until Verizon corrects the UNE pricing concerns expressed herein.

Respectfully submitted,

**ASSOCIATION OF COMMUNICATIONS  
ENTERPRISES**

By:                     /s/                      
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April 8, 2002

Its Attorneys

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Id. at p. 16.

**CERTIFICATE OF SERVICE**

I, Charles C. Hunter, do hereby certify that a true a correct copy of the foregoing  
Opposition of the Association of Communications Enterprises has been served by the First Class  
Mail, postage prepaid, on the individuals listed below, on this 8th day of April, 2002:

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